

# Exhibit 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA**

IN RE: ) Case No.: 2:15-cv-01045-RFB-(PAL)  
 )  
Cung Le, Nathan Quarry, Jon Fitch, Brandon Vera, ) CLASS ACTION  
Luis Javier Vazquez, and Kyle Kingsbury, )  
on behalf of themselves and all others similarly )  
situated, )  
 )  
Plaintiffs, )  
 )  
vs. )  
 )  
Zuffa, LLC, d/b/a Ultimate Fighting Championship )  
and UFC, )  
 )  
Defendant. )

**DECLARATION OF  
HAL J. SINGER, PH.D.**

**TABLE OF CONTENTS**

	<u>Page</u>
<b>INTRODUCTION AND ASSIGNMENT.....</b>	<b>2</b>
<b>I. MY ECONOMIC AND ECONOMETRIC FINDINGS REGARDING ECONOMIC CONDITIONS AND EFFECTS DURING THE CLASS PERIOD WOULD NOT BE CHANGED WITH ADDITIONAL DISCOVERY FROM THE POST-CLASS PERIOD .....</b>	<b>3</b>
<b>II. ZUFFA CONTINUES TO DOMINATE THE MMA INDUSTRY DURING THE POST-CLASS PERIOD, AND DR. TOPEL'S ANECDOTES FROM THE POST- CLASS PERIOD DO NOT DEMONSTRATE OR EVEN SUGGEST OTHERWISE .....</b>	<b>6</b>
<b>III. REOPENING DISCOVERY WOULD REQUIRE A FULL ANALYSIS OF ZUFFA'S POST-PERIOD CONDUCT, ACQUISITIONS, FIGHTER CONTRACTS, AND DATA .....</b>	<b>10</b>
<b>IV. COMPETITION IS STILL NOT "JUST AROUND THE CORNER" .....</b>	<b>12</b>
<b>CONCLUSION .....</b>	<b>17</b>

## INTRODUCTION AND ASSIGNMENT

1. Dr. Robert Topel submitted his *sixth* report in this matter on October 24, 2023.<sup>1</sup> Dr. Topel's sixth report (TR6) restates opinions he has reached across his five previous reports.<sup>2</sup> He opines that discovery for this matter should be reopened so that he may submit a seventh report that would focus on the years following the Class Period. The Class Period for the certified Bout Class is December 16, 2010 to June 30, 2017. Dr. Topel's declaration is attached to a Motion from Defendant Zuffa, LLC ("Zuffa") to reopen discovery.<sup>3</sup> I understand from Zuffa's Motion that it is seeking to reopen fact discovery in this case so that Zuffa can take discovery on the developments and effects of Zuffa's alleged anticompetitive scheme during the six-year period from the end of the Class Period until the present (the "Post-Class Period").

2. I have been asked by counsel for Plaintiffs to opine on whether facts or circumstances from the six-year Post-Class Period could have any implication for my opinions regarding market power, foreclosure, injury, anticompetitive effects, asserted procompetitive justifications, or damages relating to events and circumstances *during* the Class Period. I have also been asked to assess the validity and economic significance of Dr. Topel's anecdotal narrative of events that have occurred in the Post-Class Period, and whether it has or could reasonably have any bearing Zuffa's dominance of the MMA industry during the Post-Class Period.

3. I conclude that none of Dr. Topel's anecdotes from the Post-Class Period is relevant to my opinions to date in this case about anything material, including market power, foreclosure, injury, anticompetitive effects, asserted procompetitive justification, or damages during the Class Period.<sup>4</sup> Thus, any new evidence of market circumstances or effects during the Post-Class Period would not affect my opinions about economic circumstances or effects during the Class Period. Even if I assumed—contrary to reality—that Zuffa competed in a perfectly competitive MMA marketplace in the Post-Class Period, that fact alone would have no bearing on my findings of market power, foreclosure, anticompetitive injury, anticompetitive effects, asserted procompetitive justifications, or damages during the Class Period. Moreover, even if Dr. Topel's examples from 2018–2023 are taken at face value, they do not imply that Zuffa has lost its dominance of the MMA industry.<sup>5</sup>

---

1. Declaration of Robert H. Topel, October 24, 2023 [hereafter TR6]. All Singer Reports are noted SR#. SR1 (August 31, 2017), SR2 (January 12, 2018), SR3 (April 3, 2018), SR4 (May 28, 2018).

2. All Topel Reports are noted TR#. TR1 (October 27, 2017), TR2 (February 12, 2018), TR3 (April 6, 2018), TR4 (May 7, 2018), and TR5 (July 30, 2018).

3. Defendant Zuffa, LLC's Motion to Reopen Discovery and Amend Scheduling Order, *Cung Le v. Zuffa, LLC*, 2:15-cv-01045-RFB-BNW (filed Oct. 24, 2023) [hereafter Zuffa Motion].

4. Plaintiffs' Motion for Class Certification, *Cung Le v. Zuffa, LLC*, 2:15-cv-01045-RFB-BNW (filed Feb. 16, 2018), at i.

5. I have read all of Dr. Topel's six reports, including his last, and there is no basis to add additional discovery for the reasons I state here, but in the event there were, I reserve my right to analyze and comment on that additional discovery.

**I. MY ECONOMIC AND ECONOMETRIC FINDINGS REGARDING ECONOMIC CONDITIONS AND EFFECTS DURING THE CLASS PERIOD WOULD NOT BE CHANGED WITH ADDITIONAL DISCOVERY FROM THE POST-CLASS PERIOD**

4. All of my analyses and opinions to date are based on my study of data and evidence produced in this case regarding the period from as early as 2005 through and including June 2017. Across my previous reports, I have demonstrated the following, among other findings and opinions, during the Class Period with regards to Zuffa's Challenged Conduct:<sup>6</sup>

- **Zuffa had significant and durable monopsony power over the course of the entire Class Period if not earlier.** I demonstrated Zuffa's durable market power using indirect evidence showing that: (1) Zuffa has had high market shares in both the input market for MMA Fighters and the output market for MMA events for the entire seven-year Class Period (and in several years before that); and (2) would-be rival MMA promoters face substantial barriers to entry, largely because of Zuffa's success in locking up the best MMA Fighters into staggered, long-term exclusive contracts.<sup>7</sup> I also demonstrated Zuffa's durable market power using direct proof, including evidence that Zuffa suppressed Fighter compensation, pricing power over MMA events, restricted demand for Fighter services, restricted supply of MMA events, and the exclusion and impairment of potential rivals.<sup>8</sup>
- **The Challenged Conduct foreclosed Fighters from being reasonably accessed by other MMA promoters for at least the entire seven-year Class Period.** Top-tier MMA Fighters are a critical input necessary for a successful MMA promotion.<sup>9</sup> As both Zuffa itself and market observers have recognized, Zuffa's restrictive Fighter contracts deprived would-be rival promoters of this critical input; Zuffa's strategy has been so effective that other MMA promoters were at best distant competitors to the UFC, equivalent to minor leagues or so-called "feeder leagues."<sup>10</sup> My report shows that Zuffa's exclusive Fighter contracts foreclosed high shares of the input market for Fighters for at least the entire Class Period.<sup>11</sup> As a consequence, non-Zuffa MMA promoters were prevented during the entire Class Period from staging successful MMA events that could compete on the level of the UFC, and were also substantially constrained in their ability to offer competitive compensation or promising career paths to MMA Fighters.<sup>12</sup>

---

6. SR1 ¶2 ("Zuffa is alleged to have: (1) eliminated potential rival MMA promoters through horizontal acquisitions; (2) deprived potential rivals of key inputs (the Fighters themselves) by entering into allegedly exclusionary contracts with the vast majority of top Fighters; and, (3) taken other steps to use its alleged dominance to impair potential rivals. Plaintiffs allege that these actions, taken together (the "Challenged Conduct"), have enabled Zuffa to harm competition in the Relevant Output and Input Markets, thereby maintaining and enhancing Zuffa's monopoly and monopsony power, causing anticompetitive effects, and resulting in antitrust injury to Plaintiffs and members"). I also refer to the Challenged Conduct herein as the "Scheme."

7. SR1 Part III.A; SR2 ¶¶13-33.

8. SR1 Part III.B; SR2 ¶¶34-52.

9. SR1 Part I.A; *id.* III.C.1; *see also id.* Part III.A.1.

10. *Id.* ¶20; *id.* ¶28; *id.* ¶¶156-164.

11. *Id.* Part III.C.2.

12. *Id.* Part III.C.

- **The Challenged Conduct has generated substantial anticompetitive effects for at least the entire seven-year Class Period.**<sup>13</sup> These anticompetitive effects include suppressing compensation to UFC Fighters below competitive levels, restricting demand for and the supply of Fighter services and (relatedly) the supply of MMA events, and inflating prices to MMA fans and consumers above competitive levels. My analysis shows that Plaintiffs and absent Class Members have suffered antitrust injury due to Zuffa's suppression of Fighter compensation below what it would have been in the absence of the Challenged Conduct.
- **The Challenged Conduct cannot be justified on efficiency grounds.**<sup>14</sup> Dr. Topel has argued that the Challenged Conduct prevents Fighters from "free riding" off Zuffa's promotional spending.<sup>15</sup> I debunked this argument using economic and econometric analyses of the UFC's exclusive contracts, as well as an extensive evaluation of sports economics literature and the experience of other professional sports leagues with labor market restrictions such as the "reserve clause." My analyses show that elimination of the Challenged Conduct would benefit Fighters, consumers, and the MMA industry as a whole.<sup>16</sup> None of Zuffa's economists has made any serious attempt to rebut this extensive evidence.<sup>17</sup>

5. In my initial report, I wrote that I reserved the right to supplement my opinions in the event that new evidence became available.<sup>18</sup> Implicit in this statement is that the evidence is relevant to the study period in question. For example, if a material amount of previously unproduced UFC Fighter contracts from 2010–2017 were suddenly available to me, they would at least conceivably be relevant to my analysis of foreclosure share during the Class Period. If a significant amount of previously unavailable Fighter pay data that from 2010–2017 were suddenly available, that at least in theory could be relevant to my analysis of Fighter pay. That evidence would be unlikely to upset any of my findings or conclusions given how well founded I believe them to be, but it at least could theoretically be relevant to my analyses. Critically, for it even to be potentially relevant, this additional evidence would need to be contemporaneous to the period of study, and must relate to an input in the analyses I conducted.

6. Dr. Topel suggests that, during the Post-Class Period, "there have been numerous developments in the MMA industry that, as, an economist, would find useful and important to analyze."<sup>19</sup> Dr. Topel then proceeds to list a small sampling of other MMA promoters' activities and reported revenues from 2018 to 2023.<sup>20</sup> Dr. Topel claims that "it would be important to review and consider the extent to which Zuffa's competitors have expanded their businesses, and other

13. *Id.* Part III.D.

14. *Id.* ¶¶257-290.

15. TR1, ¶25; ¶42; ¶¶85-89; ¶¶113-114. See also TR3 ¶12. Dr. Topel has also asserted that the Challenged Conduct reduces what he calls "substantial transaction costs." TR1 ¶¶90-97; see also TR3 ¶13. Dr. Topel has provided no evidence of any such costs, let alone evidence that the Challenged Conduct has reduced them significantly. SR2 ¶¶221-226.

16. SR1 ¶¶286-290.

17. SR2 ¶211.

18. SR1 ¶5.

19. TR6 ¶5.

20. TR6 ¶¶6-11.

competitors have entered the ‘market’ to assess whether and how developments in the market have impacted the opinions I have offered in this case.”<sup>21</sup>

7. What Dr. Topel does not do is explain *why* market activity in the Post-Class Period would have any relevance for my (or his own) findings regarding the Challenged Conduct or its economic effects *during the Class Period*. For instance, Dr. Topel does not explain how harm incurred by a Bout Class member during the Class Period could be eliminated or reduced by a supposedly meaningful entry episode in the Post-Class Period. Nor does he explain which analyses or opinions might be altered by these episodes in the Post-Class Period, nor *how* he would even conceivably change his opinions of economic circumstances during the Class Period based on new data from the Post-Class Period. Both my own and Dr. Topel’s reports were based on contemporaneous evidence and data during the Class Period. No analyses conducted in any economists’ report in this matter relies upon an assumption of future activity.

8. An extreme hypothetical demonstrates the irrelevance of Post-Class Period events to the economic opinions in this case: Suppose that starting in July 2017, the MMA industry became perfectly competitive: Rivals expanded, new entrants flooded the MMA market, and Zuffa found itself paying competitive wages to Fighters and signing less restrictive contracts. How would this future evidence feature in the analysis of the market and Zuffa’s Challenged Conduct during Class Period? How would this imply that Zuffa’s market power was not durable during the seven-year Class Period? Dr. Topel does not explain. Simply observing that market power was *eventually* lost does not imply that durable market power was never enjoyed or maintained. Zuffa suggests in its Motion that the Post-Class Period provides some kind of “natural experiment,”<sup>22</sup> but Dr. Topel does not explain in his declaration how he would exploit the alleged “natural experiment” of the Post-Class Period to inform any analysis of the Class Period. Of course, for circumstances during the Post-Class Period even to be a “natural experiment” of the impairment to competition of the Challenged Conduct during the Class Period, there would need to be a comprehensive showing that the Challenged Conduct was *the same* as between the two periods. As far as I can tell, neither Zuffa nor Dr. Topel even makes such a claim. Moreover, the best “natural experiment” of the effects of the Challenged Conduct during the Class Period is to study the effects of the Challenged Conduct *during the Class Period*. That is what I and Dr. Topel have already done.

9. Zuffa argues in its Motion that it is “the ability to maintain market share” that counts.<sup>23</sup> Evidence from Post-Class Period cannot as a matter of logic refute my findings that Zuffa *did* have the ability to maintain market share during the entirety of the seven-year Class Period. Moreover, neither Zuffa nor Dr. Topel even claims—let alone cites to any evidence—that Zuffa lost market share during the Post-Class Period. And as I show below, the public evidence is to the contrary. Finally, even if Zuffa had changed its conduct today, and even if new rivals somehow found a way take share from the UFC (which no one even claims), it would not erase the antitrust harm incurred by Fighters (in the form of underpayments) during the long-past Class Period.

---

21. TR6 ¶12.

22. Zuffa Motion at 12.

23. Zuffa Motion at 2.

**II. ZUFFA CONTINUES TO DOMINATE THE MMA INDUSTRY DURING THE POST-CLASS PERIOD,  
AND DR. TOPEL'S ANECDOTES FROM THE POST-CLASS PERIOD DO NOT DEMONSTRATE OR  
EVEN SUGGEST OTHERWISE**

10. Dr. Topel lists a small handful of anecdotes from the MMA industry from the Post-Class Period. From these anecdotes, Dr. Topel concludes that the MMA industry is “dynamic,” a favorite phrase of Chicago School economists, and that such entry could be indicative of the “relative ease of entry and expansion.”<sup>24</sup> Specifically, he cites:

- Bellator’s television deals from 2018-2023;<sup>25</sup>
- Bellator’s revenue increase from \$18 million in 2016 to \$35 million in 2018;<sup>26</sup>
- PFL signing deals, receiving investments, and hosting an unspecified number of events;<sup>27</sup>
- ONE Championship purportedly performing well in international markets and “reportedly planning [to] expand its presence in the US market;”<sup>28</sup>
- Invicta being acquired;<sup>29</sup>
- Xtreme Fight Championships signing a television deal and increasing revenue.<sup>30</sup>

11. Note that none of the minor promotions Dr. Topel lists in his declaration is new to the industry. Bellator, PFL, ONE Championship, Invicta, and Xtreme Fight Championship all existed in Class Period. Despite claiming that these episodes could be indicative of the “relative ease of entry and expansion,”<sup>31</sup> Dr. Topel has not identified a single episode of actual new market entry.

12. Setting aside the fact that activity in the Post-Class Period is not relevant to a study of conduct and outcomes during the Class Period, if Dr. Topel’s hunch were correct, we would expect that an empirical analysis of the MMA market would show that the UFC has lost market share to these expanding rivals or that UFC was forced to increase its Wage Share. If the industry is as “dynamic” as Dr. Topel claims it has now finally become, then the data should show a decrease in the UFC’s share of the relevant market or increases in Zuffa’s Wage Share. I find it telling that not only did Zuffa and Dr. Topel fail to provide any market share data or wage share data from the Post-Class Period to corroborate Dr. Topel’s narrative of dynamic entry and expansion—data which they surely have internally—neither Zuffa nor Dr. Topel even *claim* that the UFC has lost market share or increased wage share in the Post-Class Period.

24. TR6 ¶12.

25. TR6 ¶6.

26. TR6 ¶7.

27. TR6 ¶8.

28. TR6 ¶11.

29. *Id.*

30. *Id.*

31. TR6 ¶12.

13. To refresh, In Figure 1 of my initial report (SR1), I calculated Zuffa’s market share of the input market from 2005 through June 2017. I presented market shares for both the Relevant Input Market (measured in two ways, the “Tracked” measure and the “Ranked” measure),<sup>32</sup> and the Relevant Input Submarket for Fighters, also known as the “Headliner” measure.<sup>33</sup> I weighted Fighters either by their associated promoters’ PPV and gate revenues per Fighter, or by the inverse of the Fighter’s rank (higher ranked fighters being worth more than lower ranked Fighters).<sup>34</sup> Figure 1 showed that from the start of the Class Period through June 2017, Zuffa’s share of the Relevant Input Market fluctuated between 94 and 99 percent (using the Tracked measure) and between 71 and 91 percent (using the Ranked measure). From the start of the Class Period through June 2017, Zuffa’s share of the Relevant Input Submarket fluctuated between 95 and 99 percent (if Fighters are weighted by revenue) and between 52 and 91 percent (if Fighters are weighted by the inverse of their FightMatrix rank).<sup>35</sup>

14. In Figure 1 below I have simply re-calculated Zuffa’s share of the Headliner Market using publicly available data through October 2023.<sup>36</sup> Figure 1 below is a re-creation of Figure 1 of my initial report, expanded to include the Post-Class Period. Note that I only calculate the market share of the Headliner Market in the Post-Class Period that was weighted by a Fighter’s rank (rank data being publicly available through October 2023). I did not update the other measures, which used the revenue weighting, because I do not have updated financial information to adjust the weights after 2017. This analysis reveals that Zuffa’s market share in the Headliner Market has *grown from 90 percent in June 2017 to 93 percent in October 2023*. It did not decline, but instead rose in the Post-Class Period. Of course, even if it had declined, that would not erase the durable monopsony power that Zuffa maintained during the Class Period. But what this shows is that the anecdotes about supposed rival expansion in the Post-Class Period is not evidence of increased competition faced by the UFC in the Post-Class Period. I have also calculated the change in the rank-weighted market shares Zuffa has held in the Relevant Input Market (using the “Ranked” definition from my initial report, *see n.32 supra*). Zuffa’s post-Class Period rank-weighted market share of the Ranked Relevant Input Market has also demonstrated a consistent upward trend and is significantly higher today than in mid-2017.

32. SR1 ¶¶109-110 (“Under the “Tracked” measure, all Fighters who fought for an MMA promoter included in the FightMetric database (which “tracks” Fighter performance) are (conservatively) included in the Relevant Input Market. In addition to the MMA promoters covered in the FightMetric data, I conservatively designate all Fighters associated with MMA promoters acquired by Zuffa in this measure of the input market. As seen in Table 2, the Fighters covered under this measure of the Relevant Input Market include those affiliated with Affliction, Bellator, Dream, EliteXC, Pride, Strikeforce, UFC, World Extreme Cagefighting, and World Fighting Alliance.... The second, “Ranked” measure expands the Relevant Input Market relative to the first measure: The Ranked measure includes (1) all Fighters encompassed by the “Tracked” measure; and (2) any Fighter ranked in the FightMatrix database. In addition, the Ranked measure also includes the Asian MMA promoter ONE Championship.”).

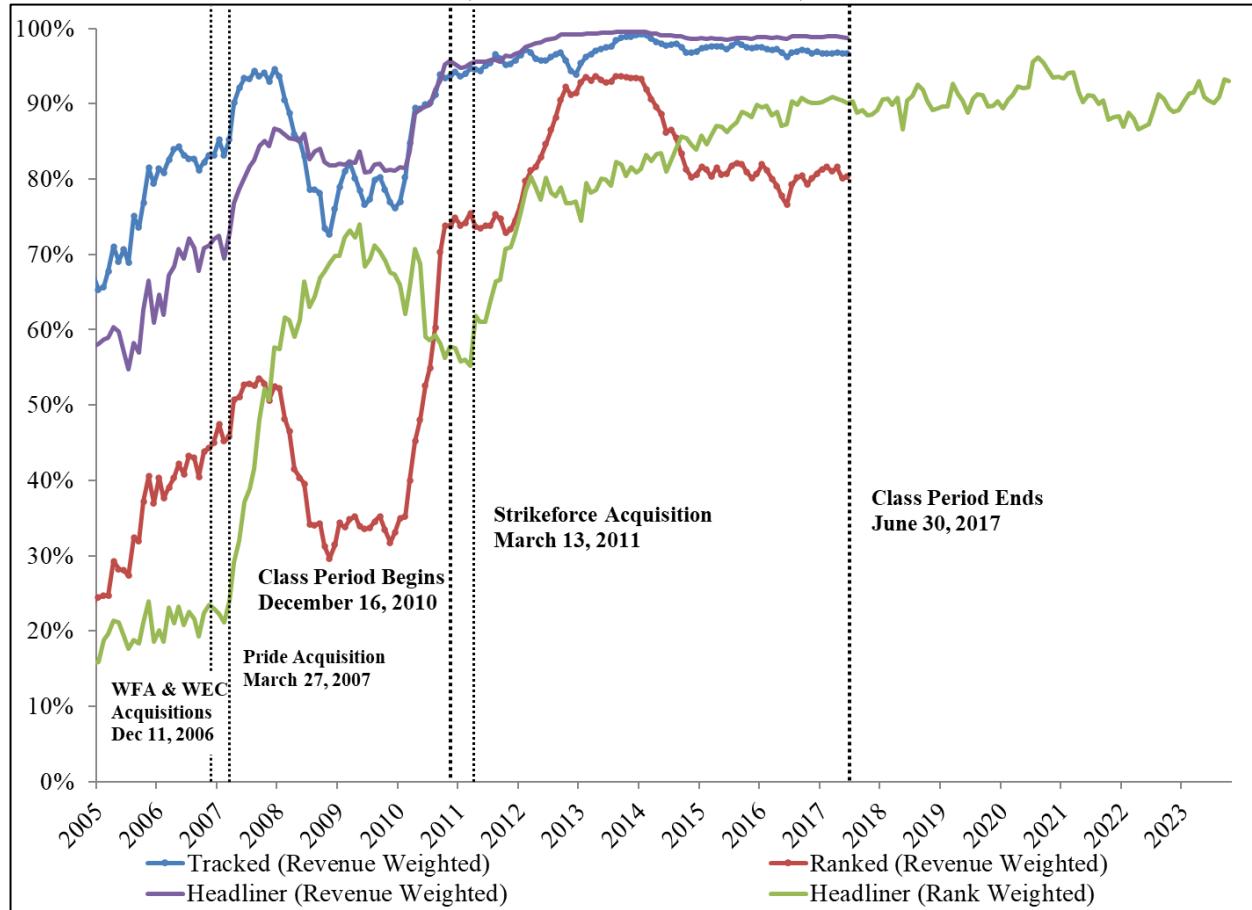
33. SR1 ¶112 (“Under the “Headliner” measure, the Relevant Input Submarket includes each of the top fifteen Fighters in any of the ten major MMA weight classes tracked in the *USA Today/MMA Junkie* rankings, according to the FightMatrix ranking database. There are no close substitutes for Headliners. As explained in Part I.A, MMA promoters rely on top-ranked Fighters at the Top of the Card to draw audiences and viewers to Live MMA Events; for the same reason, fighting at the Top of the Card is the primary career objective for an MMA Fighter. This objective can be achieved only by defeating other highly-ranked Fighters.”). *See also* ¶¶128-129.

34. SR1 ¶128.

35. SR1 ¶129, Figure 1.

36. I used updated data from Sherdog.com and Fightmatrix.com. My method us identical to my original report. See SR1 ¶¶128-129. *See also* SR1 ¶¶303-305.

FIGURE 1: ZUFFA MARKET SHARE OF RELEVANT INPUT MARKET OVER TIME  
(THROUGH OCTOBER 2023)



15. These data reveal that Dr. Topel’s Post-Class Period anecdotes in no way imply that Zuffa is any less dominant in the market for MMA Fighters during the Post-Class Period than it was during the Class Period. This evidence directly refutes Zuffa’s claim in its Motion that “any market power Zuffa enjoyed during the Class Period was transient.”<sup>37</sup> That argument was rejected by my analyses of data during the Class Period—given that I have shown that the UFC had durable market power for more than seven years—but it is further rejected by the reality of the Post-Class Period.

16. The same finding is true in the output market, where Zuffa has continued its dominance in MMA promotion. In focusing on the unremarkable events of a handful of supposed MMA rivals, Dr. Topel and Zuffa’s counsel have ignored the revenues that Zuffa and the UFC have generated during the Post-Class Period. Zuffa’s revenues and profitability have eclipsed Dr. Topel’s anecdotes about supposed MMA rivals. The UFC has nearly **doubled** its revenues since the filing of my initial report in 2018: The UFC earned \$666 million in event revenues in 2016. New 2022 public reporting place the UFC’s revenues at *\$1.14 billion*.<sup>38</sup> The juxtaposition of Zuffa’s revenue figure in the billions against Dr. Topel’s anecdote of Bellator generating *\$35 million* in 2018 reveals

37. Zuffa Motion at 2.

38. Shlomo Sprung, *UFC Revenue Spikes Following WWE Merger*, BOARDROOM (Sept. 21, 2023), <https://boardroom.tv/ufc-finances-2023-report/>.

the emptiness of his anecdote. Similarly, ONE Championship reported less than \$30 million in revenue for 2018,<sup>39</sup> \$45.7 million in 2019, and \$48.2 million in 2020,<sup>40</sup> only about five percent of Zuffa's revenues in 2019 and 2020. Moreover, not a penny of this ONE Championship revenue is from the United States—as ONE Championship did not hold any events in North America in 2019 or 2020. Similarly, while Zuffa cites Bellator's 2018 five-year “up to nine-figure” DAZN broadcast deal (which itself was apparently exaggerated),<sup>41</sup> Zuffa signed its own five-year broadcast deal worth a reported \$1.5 billion.<sup>42</sup>

17. Not only has the UFC maintained its dominance of the output market in terms of revenues, UFC's profitability has only improved—and possibly at the further expense of its Fighters. The UFC's net income increased from \$119.0 million in 2015 to \$272.3 million in 2021 and \$387.2 million in 2023 (annualized).<sup>43</sup> This large increase in profits may have even come at the expense of its Fighters: One news outlet reported that the UFC Fighters' wage share *declined* in the Post-Class Period, estimating that “that 2022 revenue sharing decreased from just under 20% to 13-15%.”<sup>44</sup>

---

39. John S. Nash, *ONE Championship finances: Accumulated losses skyrocket to \$126 million*, BLOODY ELBOW, <https://bloodyelbow.com/2020/06/08/one-championship-finances-accumulated-losses-skyrocket-to-126-million/> (last visited Nov. 2023) (discussing 37.3 million Singapore dollars of revenue in 2018, which is roughly \$27.2 million USD).

40. John S. Nash, *ONE Championship's 2020 finances: \$48 million more in losses, and a curious \$400 million transaction*, BLOODY ELBOW, <https://bloodyelbow.com/2021/09/14/one-championships-2020-finances-48-million-more-in-losses-and-a-curious-400-million-transaction-mma/> (last visited Nov. 2023).

41. Further reporting, not cited by Zuffa, revealed that the DAZN deal was worth only “up to” nine-figures, and that it was only a three year deal with DAZN holding an option to renew it for two additional years. But according to an interview with DAZN executive Joe Markowski, the deal, in fact, barely lasted more than two years, meaning Bellator was never able to realize the purported “nine-figure” revenue upside of the deal. See *DAZN Exec Joe Markowski Explains What Went Wrong with Bellator Broadcast Deal*, MMA FIGHTING (Apr. 27, 2022), <https://www.mmafighting.com/2022/4/27/23045229/dazn-exec-joe-markowski-explains-what-went-wrong-with-bellator-broadcast-deal>. Topel claims that Bellator then “move[d] to CBS Sports Network starting in October 2020,” before “announcing that its events would begin airing on Showtime” in 2021. TR6 ¶6. But Bellator’s owner, Paramount Global, also owns CBS Sports and Showtime, meaning that it was simply airing its own product and receiving no media-rights revenue. Alexander K. Lee, *Bellator announces exclusive Showtime TV deal, Patricio Pitbull vs. Emmanuel Sanchez to headline April 2 return*, MMA FIGHTING (Feb. 9, 2021), <https://www.mmafighting.com/2021/2/9/22275115/bellator-announces-exclusive-showtime-tv-patricio-pitbull-emmanuel-sanchez-headline-april-2-return>; Then, just a few weeks ago, Paramount Global announced it would no longer broadcast MMA content on Showtime, leaving Bellator without a network. Nolan King, *Showtime to stop promoting boxing, MMA, leaving Bellator’s future in further uncertainty*, MMA JUNKIE, USA TODAY SPORTS (Oct. 17, 2023), <https://mmajunkie.usatoday.com/2023/10/showtime-announces-no-more-boxing-mma-bellator-future-uncertain> Paramount Global announced that it desired to “dedicate a larger percentage of resources” toward content that “drive[s] subscribers.” *Id.*

42. *ESPN Adds Fights to UFC TV Rights Deal, Reaching \$1.5 Billion Value*, Variety (May 22, 2018), <https://variety.com/2018/tv/news/espn-adds-30-fights-to-ufc-tv-rights-deal-reaching-1-5-billion-value-exclusive-1202819447/>.

43. Craig Pekios, *Report – UFC Generated More Revenue Than Any Other Promotion Combined, Fighter Pay Continued To Plummet*, LOW KICK MMA (May 23, 2023), <https://www.lowkickmma.com/ufc-generated-revenue-fighter-pay-dana-white/>.

44. Shlomo Sprung, *UFC Revenue Spikes Following WWE Merger*, BOARDROOM (Sept. 21, 2023), <https://boardroom.tv/ufc-finances-2023-report/>.

Public reports also indicate that the amount Zuffa pays fighters fell by \$2 million in absolute terms between 2016 and 2022.<sup>45</sup>

18. In summary, the UFC continues to grow its revenues and profits at a rapid pace, eclipsing any supposed revenue growth by its purported MMA rivals. There is zero evidence that any of the activity of the UFC's supposed rivals listed by Dr. Topel makes any material difference to its position in the MMA industry, whether in the input or output markets. Even if the Post-Class Period were relevant to my findings regarding the conduct and economic outcomes during Class Period (it is *not*), Zuffa continues to dominate MMA in every dimension.

### **III. REOPENING DISCOVERY WOULD REQUIRE A FULL ANALYSIS OF ZUFFA'S POST-PERIOD CONDUCT, ACQUISITIONS, FIGHTER CONTRACTS, AND DATA**

19. Zuffa claims in its Motion that there ought be a "limited and targeting reopening of discovery" and further that "additional discovery can be conducted expeditiously... and can likely be completed in 4-6 months."<sup>46</sup> This timeframe, in my experience, lacks economic support and is unrealistic.

20. To be clear, reopening discovery would not change any analysis done using the Class Period evidence. Nonetheless, Zuffa claims that the Post-Class Period "provides a natural experiment to test Plaintiffs' claims" because "Plaintiffs do not dispute that the use of virtually identical contracts continued in the post-Class-Period."<sup>47</sup> According to Zuffa, if the conduct is unchanged between the Class Period and the Post-Class Period, then any change in competitive circumstance must imply that the contract did not exclude rivals.<sup>48</sup> As I have made clear above, the Zuffa's premise is faulty. My findings of Zuffa's maintenance of durable market power and harms from that maintenance of market power during the entire Class Period would not be affected by circumstances in the Post-Class Period. Nevertheless, even *under Zuffa's own theory*, for the Post-Class Period discovery to be relevant to the Class Period, the economists would need to evaluate whether the Challenged Conduct during the Class Period and Post-Class Period is materially similar. If the Challenged Conduct changed materially as between the two periods, evidence of economic outcomes during the Post-Class Period would not be relevant to whether the conduct during the Class Period was or was not anticompetitive. And while I understand that Plaintiffs allege that Zuffa continued its anticompetitive conduct, allegations are not evidence. All parties understand that that would need to be proven. Moreover, it could be true that Zuffa continued its anticompetitive conduct, but that it changed and evolved as between the Class Period and Post-Class Period. It necessarily follows, then, that Zuffa's proposal for reopening discovery would require the parties and their respective experts to gain access to, and analyze all of the Post-Class Period evidence on the Challenged Conduct, the alleged foreclosure, and the economic effects. This is by no means "limited" or "targeted;" it would essentially double the amount of evidence review that has already

45. John S. Nash, *13% revenue share? Fighter pay drops, UFC profits blow past every fight promoter combined*, BLOODY ELBOW, SUBSTACK (May 22, 2023), <https://bloodyelbow.substack.com/p/the-ufc-is-a-money-making-machine>.

46. Zuffa Motion at 3.

47. Zuffa Motion at 12.

48. *Id.*

been invested in this matter over the past nine years, while making *no material change* to the import or implications of the evidence already offered by both sides during the Class Period.

21. We cannot simply assume that the Post-Class Period contracts are “virtually identical” to contracts used during the Class Period. It must be demonstrated by reviewing the evidence. Indeed, the public evidence is that the Zuffa’s Fighter contracts may have changed over time. Bloody Elbow, a widely read MMA news site, reports that “[m]ajor changes to UFC contracts add more restrictions” in February 2023,<sup>49</sup> and that “starting at least midway through 2017 there was an overhaul of the agreement, with extensive changes in the language used and several specific new clauses added.”<sup>50</sup> I also understand that the UFC introduced a “sunset clause,” in response to this lawsuit, lost a fighter due to that change, and then amended the clause to be more restrictive in response.<sup>51</sup> The economists would need to evaluate all of this data and evidence, and determine whether this new conduct was exclusionary and foreclosed competition. That means, in order for discovery of the Post-Class Period even to be useful even in theory, I would need to repeat the same

49. Anton Tabuena, *Major Changes to UFC Contracts Add More Restrictions, Waiver to Prevent Class Action Lawsuits*, BLOODY ELBOW, <https://bloodyelbow.com/2023/02/10/major-changes-to-ufc-contracts-add-more-restrictions-waiver-to-prevent-class-action-lawsuits/> (last visited Nov. 2023) (“The UFC has recently made several changes to their promotional agreements, which could have a major impact in how the sport operates moving forward. As seen on the several new UFC contracts obtained by Bloody Elbow, sweeping changes have been made that are both restrictive and concerning for fighters. The biggest change is the addition of an arbitration agreement and class action waiver. These have the potential to impact the current antitrust lawsuit and reverse some of the contractual gains that fighters have seen made over the last few years.”).

50. John S. Nash, *First to Escape the Champion’s Clause? Ngannou’s Unique Opportunity Helped by These UFC Contract Changes*, BLOODY ELBOW, <https://bloodyelbow.com/2022/01/22/francis-ngannou-ufc-champions-clause/> (last visited Nov. 2023). See also *id.* (“New UFC contracts have undergone a whole host of changes alongside removal of the ‘Champion’s Clause’”).

51. For example, Zuffa argues that PFL’s signing of the UFC Heavyweight Champion Francis Ngannou demonstrates that Zuffa’s contracts are not restrictive. Zuffa Motion at 8. Bloody Elbow reports that this event only occurred because the UFC introduced a “sunset clause” that overrides the Champion’s Clause, putting Ngannou in a unique situation. It appears that since Ngannou’s departure, the UFC has since backtracked on this change to its contracts and the Champions Clause has been re-introduced. See John S. Nash, *New contract change allows UFC to ‘pause’ sunset clauses*, BLOODY ELBOW, <https://bloodyelbow.com/2023/11/01/ufc-using-francis-ngannou-to-help-case/> (last visited Nov. 2023) (“That sunset clause was introduced as a response to the *Le et al. v Zuffa* antitrust lawsuit and ensured that the promotion couldn’t continuously extend the terms of fighter contracts indefinitely, capping those terms at the five year mark. Before 2017, it did not exist. Since its inception, the clause has undergone changes, and most recently, a significant change all but ensures the contracted fighter cannot just wait out the length of their contract for release.”). See also John S. Nash, *First to Escape the Champion’s Clause? Ngannou’s Unique Opportunity Helped by These UFC Contract Changes*, BLOODY ELBOW, <https://bloodyelbow.com/2022/01/22/francis-ngannou-ufc-champions-clause/> (last visited Nov. 2023). Further, it appears that Ngannou has not even fought in an MMA bout for PFL at the time of this report, in part because PFL has no one to pit against Ngannou and the UFC refuses to co-promote. PFL founder Donn Davis states that “I think the opponents [for Ngannou] in pure MMA are not that interesting right now ... There’s only one guy in MMA right now who’s interesting for Francis Ngannou: [UFC-contracted Fighter] Jon Jones. One guy. Everybody says, ‘Well, what about [UFC-contracted Fighter] Stipe Miocic?’ Maybe. Give him a half a point. 1.5 guys who are compelling.” *Francis Ngannou only has one ‘compelling’ opponent in MMA, PFL surprisingly says*, BloodyElbow.com (Nov. 1, 2023), <https://bloodyelbow.com/2023/11/01/francis-ngannou-jon-jones-pfl-mma/>. The article notes that PFL would need to cross-promote with the UFC for either of these fights to happen. Zuffa has historically never cross-promoted with other promoters, and faces clear disincentives to do so in light of the Challenged Conduct and its substantial market power. SR1 ¶¶17, 296. This episode highlights that the combination of Zuffa’s Challenged Conduct, plus its unwillingness to cross-promote given its market dominance, reduces the output of high-quality matchups relative to a more competitive industry like boxing where cross-promotion is normal. SR1 ¶296. This is also precisely what I meant when I wrote that promoters require a “critical mass” of Fighters to continually stage events in the absence of cross-promotion. SR1 ¶75.

process of contract review that I performed during the Class Period for all Post-Class Period contracts. During the Class Period, Zuffa produced 44,526 separate Bates-numbered documents containing 51,020 individual Fighter-related documents.<sup>52</sup> My team of researchers reviewed all 51,020 documents in this production and catalogued their contents. This process alone took months to accomplish for my initial report. It would almost literally be impossible to accomplish this analysis in the timeframe Zuffa claims.

22. Moreover, I would additionally need to assess the details of Zuffa’s acquisition by WME, as well as all of the UFC’s financial data from the Post-Class Period. Given that WME very likely uses a different accounting system than Zuffa, this would require starting these analyses from scratch.

23. Although the evidence above demonstrates that Zuffa is still the undisputed titan in the MMA industry, assessing how Zuffa’s conduct changed, evolved, or remained the same during the Post-Class Period would require the same level of detailed analysis that I applied to the Class Period evidence in my previous reports. There is nothing “targeted” or “limited” about what would need to be done in discovery simply for the Post-Class Period evidence to serve the purposes Zuffa and Dr. Topel claim. Of course, even if all of that work would be completed, it could not (even in theory) undo my findings of anticompetitive conduct, foreclosure, anticompetitive effects, lack of procompetitive justifications, and damages during the Class Period.

#### **IV. COMPETITION IS STILL NOT “JUST AROUND THE CORNER”**

24. Zuffa’s argument in its Motion, and in Dr. Topel’s report (TR6), is a return to the same assertions they have been making, and I have been responding to, since the outset of this case: That the UFC’s purported rivals are supposedly thriving and new competition is poised to enter the MMA industry. Zuffa has claimed since before this case began that its success is a function of its procompetitive business acumen, rather than its anticompetitive conduct. At every point Zuffa has been challenged for behaving in an anticompetitive manner, it has claimed that its conduct was procompetitive and market-expanding, and that competition is “just around the corner.” Zuffa then enumerates lists of imagined rivals that are on the cusp of competing away Zuffa’s dominance of the MMA industry. The Motion and Dr. Topel’s report form the latest chapter in this long-standing, yet unpersuasive, narrative.

25. In 2011, Zuffa argued to the Federal Trade Commission (FTC) that competition in the MMA industry was just around the corner. Zuffa argued that the FTC should allow its acquisition of rival MMA promoter Strikeforce because Zuffa’s rivals were expanding, and new entrants were about to launch into the scene.<sup>53</sup> In this 2011 submission, Zuffa listed the promotions Bellator, “Shark Fights,” “M1,” “BAMMA,” “Legend FC,” “King of the Cage,” “Fight Club OC,” “MFC, XFC, MMA Live, DREAM and Titan FC” as competitors who were in the act of “expansions.”<sup>54</sup> Zuffa also claimed that new entrants “ProElite,” One Championship, “MMA Fight Pit,” “Superior Cage Combat,” “Ultimate Warrior Fighting,” “Fight Now” had just recently entered into the MMA

52. SR1 ¶295.

53. *Responses of Zuffa, LLC to the Civil Investigative Demand Issued by The Federal Trade Commission on June 30, 2011*, U.S. FEDERAL TRADE COMMISSION (Jun. 30, 2011), at 2.

54. ZFL1212232 at 2-6.

industry.<sup>55</sup> If these names are not familiar to the Court, it is because only Bellator currently operates in the United States. ONE Championship still exists, but has virtually no presence in the United States today, just like it had no presence in the United States in 2011.<sup>56</sup> ONE Championship did not hold its first event in the United States (or North America more broadly) until May 5, 2023, nearly six years after the last of the bouts of the *Le* Class Period.<sup>57</sup>

26. In 2017, Dr. Topel opined that competition was just around the corner. Dr. Topel claimed that “the UFC has and will continue to face significant competition,”<sup>58</sup> and that “already-popular and fast-growing MMA promoters like ONE Championship, the Professional Fighters League, and Absolute Championship Berkut.”<sup>59</sup> Dr. Topel claimed that these established and upcoming rivals would “not only compete against UFC in the downstream market, but also compete vigorously for MMA athletes.”<sup>60</sup> As shown above in Figure 1, Dr. Topel’s 2017 predictions about the Post-Class Period have proven to be wrong.

27. Now, in 2023, Zuffa once again claims that competition is still just around the corner. Dr. Topel opines that Bellator, PFL, ONE, Invicta, and Xtreme Fight Championships are all poised to vigorously compete in the MMA industry, based on his review of a handful of television deals, acquisitions, and revenue figures. In a similar declaration in support of Zuffa’s Renewed Motion for Summary Judgment, Ike Epstein claims that Bellator, PFL, ONE, Invicta, Xtreme, and Combate America “compete vigorously with UFC.”<sup>61</sup> Epstein further claims, without explanation, that “other competitors have also entered the MMA marketplace or grown,” citing Legacy Fighting Alliance, Bare Knuckle Fighting Championships, Titan Fighting Championships, and Golden Boy Promotions.<sup>62</sup> Finally, Zuffa’s summary judgment brief again points to Absolute Championship Berkut as a significant competitor.<sup>63</sup> None of these supposed rivals represents a real threat to Zuffa’s dominance. No one needs to take my word for it. This is what the current CFO of TKO Group Holdings (who now controls the UFC), recently said about the relationship between the UFC and its supposed competitors in the MMA business (including in particular Bellator and PFL):

Not only do we have over 600 fighters, we have the premiere fighters and they ultimately are trying to get to the UFC, which is akin to the XFL trying to ultimately get their players into the NFL. That’s what we are. Those are *pipeline and feeder properties*, in fact, we’re support[ive] of them being on ESPN....<sup>64</sup>

---

55. *Id.* at 7-10.

56. *Id.* at 8.

57. *ONE Fight Night 10: Johnson vs. Moraes III on Prime Video*, ONE CHAMPIONSHIP, <https://www.onefc.com/events/onefightnight10/> (last visited Nov. 2023). Note that I conservatively included One FC in my analyses of UFC’s market dominance, even though they were not participating in the relevant geographic market. See SR1 ¶¶99, 110.

58. TR1 ¶69.

59. *Id.*

60. TR1 ¶74.

61. Epstein Decl. ¶¶ 5-14; ECF No. 879-113.

62. *Id.* ¶15.

63. Defendant Zuffa, LLC’s Renewed Motion for Summary Judgment, *Cung Le v. Zuffa, LLC*, 2:15-cv-01045-RFB-BNW (filed Oct. 24, 2023) [hereafter Renewed MSJ] ¶18, ECF No. 878.

64. *Q3 2023 TKO Earnings Call*, TKO (Nov. 7, 2023) (emphasis added), <https://investor.tkogrp.com/events-and-presentations/events/event-details/2023/TKO-to-Announce-Third-Quarter-2023-Results/default.aspx>.

In other words, the UFC has repeatedly conceded—including as recently as last week—both publicly and in internal confidential documents that it is dominant; that it has no real competition; and that all other MMA promoters are effectively minor leagues or “feeder properties.” As discussed above and shown below, Zuffa’s and Dr. Topel’s specific anecdotes about supposed competition in the Post-Class Period are not evidence of increased competition:

- **Bellator:** Bellator’s reported 2018 revenue figures (*see TR6 ¶7*) achieved only five percent of the UFC’s reported revenue in 2018.<sup>65</sup> Dr. Topel notes that in 2018, “Bellator announced a five-year, nine-figure streaming deal with DAZN.”<sup>66</sup> The deal was intended to make the organization profitable, as Bellator has lost millions in every reported year.<sup>67</sup> But that contract was cancelled within two years.<sup>68</sup> Dr. Topel spins this development by noting that Bellator then “move[d] to CBS Sports Network starting in October 2020,” before “announcing that its events would begin airing on Showtime” in 2021.<sup>69</sup> But Bellator’s owner, Paramount Global, also owns CBS Sports and Showtime, meaning that it was simply airing its own product. Just a couple of weeks ago, Paramount Global announced it would no longer broadcast MMA content on Showtime, leaving Bellator without a network.<sup>70</sup> This decision accompanied reports that Bellator, after “suffering a significant drop in viewership over the past few years,” and may sell to PFL in the coming weeks.<sup>71</sup> Dana White has conceded just this month (in November 2023) (as he has multiple times in the past) that Bellator is not a competitor to the UFC, recently calling Scott Coker’s claim that Bellator has similar quality fighters “the [expletive] dumbest thing I’ve ever heard,”<sup>72</sup> stating that “if somebody’s . . . good who’s in one of these other organizations, they’re gonna end up [in UFC]”<sup>73</sup> and asking: “Why, on God’s green [expletive] earth, would anybody buy Bellator?”<sup>74</sup>

65. *See supra ¶16.*

66. TR6 ¶6, ECF No. 884-2.

67. Bellator made \$35m in revenue and lost \$5m in the last available year, 2018. *See John S. Nash, An in-depth look at Bellator’s finances, BLOODY ELBOW* (2019), <https://bloodyelbow.com/2020/02/06/an-in-depth-look-at-bellators-finances/>.

68. MMA Fighting Newswire, *DAZN exec Joe Markowski explains what went wrong with Bellator broadcast deal*, SBNATION (APR. 27, 2022), <https://www.mmafighting.com/2022/4/27/23045229/dazn-exec-joe-markowski-explains-what-went-wrong-with-bellator-broadcast-deal>.

69. *See TR6 ¶6.*

70. Nolan King, *Showtime to stop promoting boxing, MMA, leaving Bellator’s future in further uncertainty*, MMA JUNKIE (Oct. 17, 2023), <https://mmajunkie.usatoday.com/2023/10/showtime-announces-no-more-boxing-mma-bellator-future-uncertain>.

71. Nishant Zende, “”They’re owned by f\*\*\*ing Viacom” – Dana White suspects a secret reason behind Bellator’s sale and it isn’t bankruptcy,” SPORTSKEEDA (Oct. 4, 2023), <https://www.sportskeeda.com/mma/news-they-re-owned-f-ing-viacom-dana-white-suspects-secret-reason-behind-bellator-s-sale-bankruptcy>.

72. *Dana White Rips on Bellator claiming best LHW division in MMA*, MMAWEEKLY, [https://www.youtube.com/watch?v=efSf\\_SZmMmA](https://www.youtube.com/watch?v=efSf_SZmMmA) (last visited Nov. 2023), at 0:52.

73. *Paddy Pimblett & Dana White’s UFC 282 Preview, PADDY THE BADDY*, <https://www.youtube.com/watch?v=JmpCjYLIPug> (last visited Nov. 2023), at 40:35.

74. *Dana White Talks UFC 293, Sean Strickland Antics, Goes Scorched Earth On Bellator*, MMAF, <https://www.youtube.com/watch?v=d6MuqXQDV5w> (last visited Nov. 2023), at 18:25.

- **PFL:** Topel notes that PFL has been valued at \$500m.<sup>75</sup> Even if accurate, this valuation amounts to only 4 percent UFC's value. In May 2023, White explained why PFL's high-profile fundraising and acquisition of Bellator represented no threat to UFC's dominance.<sup>76</sup>
- **ONE:** Dr. Topel states that ONE is "valued at over \$1 billion" and plans on expanding to the U.S. market. TR6 ¶11. However, ONE lost \$111m in 2021 against \$67m in revenue.<sup>77</sup> To date, ONE has held exactly one event outside of Asia: a May 5, 2023, Fight Night at the 1stBank Center in Broomfield, Colorado.<sup>78</sup>
- **Golden Boy Promotions**<sup>79</sup> is Oscar De La Hoya's boxing promotion. It held **one MMA event in 2018**. When asked why he did not pursue further events, De La Hoya blamed White: "[I]t's just because I received too much heat from Dana White. That's literally the bottom line. And also being busy with Golden Boy Promotions, I decided I'm going to stay in my own lane."<sup>80</sup>
- **Absolute Champion Akhmat** ("ACA," previously Absolute Champion Berkut)<sup>81</sup> is a Russian MMA promoter. ACA was placed on the OFAC sanctions list in 2020 and cannot do business with American companies and citizens.<sup>82</sup>
- **Xtreme Fighting Championships** is a domestic promoter focused largely on Latin America. Dr. Topel notes that its revenue increased "by 487 percent" from 2020 to 2021.<sup>83</sup> He omits that this "increase" in revenues was from \$371,000 to \$2.2 million, and that its net loss was \$2.4 million.<sup>84</sup>

75. See TR6 ¶¶8-10.

76. MMA Fighting Newswire, *Dana White rips Francis Ngannou, PFL over historic deal: 'It makes no sense to me'*, MMA FIGHTING (May 21, 2023), <https://www.mmafighting.com/2023/5/21/23731580/dana-white-rips-into-francis-ngannou-pfl-over-historic-deal-it-makes-no-sense-to-me> ("What they're doing makes no sense to me, their business strategy. I'm hearing that they're raising money right now—\$283 million, \$300 million, I don't know what the number is — from the Middle East, and I've done a lot of business in the Middle East. Those guys are sharp. Who in the hell would give them \$280 million, because I'm hearing they're buying Bellator, right? So you're an organization that's burning cash, have no ratings and selling no tickets, and you're going to raise \$280 million to buy a company that's burning cash, sells no tickets, and does no ratings? It sounds absolutely fucking genius to me.").

77. Anton Tabuena, *ONE Championship reports record high \$110 million in losses for 2021, \$383 million in total*, Bloody Elbow (2022), <https://bloodyelbow.com/2022/10/04/finances-one-championship-reports-record-high-110-million-in-losses-2021-383-million-total-mma-news/>.

78. *ONE Fight Night 10*, Wikipedia, [https://en.wikipedia.org/wiki/ONE\\_Fight\\_Night\\_10](https://en.wikipedia.org/wiki/ONE_Fight_Night_10) (last visited Nov. 2023).

79. See Renewed MSJ at 19-20.

80. *Oscar De La Hoya explains why Golden Boy MMA only had one show: 'I received too much heat from Dana White'*, MMA FIGHTING (Jun. 8, 2022), <https://www.mmafighting.com/2022/6/8/23160198/oscar-de-la-hoya-explains-why-golden-boy-mma-only-had-one-show-i-received-too-much-heat-dana-white>.

81. See Renewed MSJ ¶19.

82. *Treasury Sanctions Serious Human Rights Abusers on International Human Rights Day*, U.S. DEPARTMENT OF THE TREASURY (Dec. 10, 2020), <https://home.treasury.gov/news/press-releases/sm1208>.

83. See TR6 ¶11.

84. *Xtreme Fighting Championships Announces Full Year 2021 Results with Revenue Increasing 487%*, GLOBE NEWswire (May 9, 2022), <https://www.globenewswire.com/news-release/2022/05/09/2438424/0/en/Xtreme-Fighting-Championships-Announces-Full-Year-2021-Results-with-Revenue-Increasing-487.html>.

- **Invicta Fighting Championships**<sup>85</sup> is a small, female-only promoter that is “a niche within a niche, and one that served as a pipeline of female talent straight into the UFC ranks whenever it needed some fresh faces.”<sup>86</sup>
- **Combate America** is a small promoter geared at Hispanic audiences. According to its CEO, its Series B gave it a \$90m valuation,<sup>87</sup> and it allegedly signed an “eight figure” media deal with Univision and Televisa,<sup>88</sup> each of which suggests under a one-percent market share (even aside from the fact that it only targets a Spanish-speaking market).
- **Bare Knuckle Fighting Championships** is both tiny and promotes a different sport: bare knuckle boxing.<sup>89</sup>
- **Legacy Fighting Alliance** (“LFA”) was formed in 2016 when Resurrection Fighting Alliance merged with Legacy Fighting Championship. In 2017, LFA’s CEO, Ed Soares, made clear that LFA was the “NCAA of MMA,” that there was no “competition” with UFC, and that LFA fighters were “fighting for an opportunity to get seen and to get noticed and to go up to the upper organization [UFC] to make money.”<sup>90</sup>
- **Titan Fighting Championship** has had an agreement with Zuffa to air its fights on UFC Fight Pass, UFC’s subscription-based digital streaming service, since 2015. It is widely considered a minor league; it gives its fighters “Zuffa-out” clauses, and its CEO describes it as a “stage . . . to get yourself into the UFC.”<sup>91</sup>

28. Put simply: After twelve years, all of the potential entrants Zuffa has identified have failed to materialize into substantial competitors. Zuffa remains the undisputed titan of the MMA industry. Zuffa maintains a dominant (over 90 percent) share of critical input market. Zuffa’s largest potential competitor in the United States, Bellator, earns less than a tenth of Zuffa’s revenue, has a tiny share of the top fighters in any weight class, and the UFC itself concedes it is a “feeder promotion,” not real competition. Zuffa’s argument that competition is “just around the corner” is not a serious position.

85. See Epstein Decl. ¶13.

86. Ben Folkes, *All-female MMA promotion Invicta FC sold to Anthem in April – here’s why*, THE ATHLETIC (May 7, 2021), <https://theathletic.com/2574108/2021/05/07/all-female-mma-promotion-invicta-fc-sold-to-anthem-in-april-heres-why/>.

87. Todd Spangler, *Kate del Castillo Invests in Combate Americas as Part of MMA Franchise’s \$20 Million Round (EXCLUSIVE)*, VARIETY (Apr. 4, 2019), <https://variety.com/2019/biz/news/kate-del-castillo-combate-americas-investment-1203179766/>.

88. Dade Hayes, *Combate Americas MMA Franchise Reaches 3-Year Deal With Univision And Televisa*, DEADLINE (Oct. 16, 2019), <https://deadline.com/2019/10/combate-americas-mma-franchise-reaches-3-year-deal-with-univision-and-televisa-1202761383/>.

89. *Bare Knuckle Fighting Championship*, WIKIPEDIA, [https://en.wikipedia.org/wiki/Bare\\_Knuckle\\_Fighting\\_Championship](https://en.wikipedia.org/wiki/Bare_Knuckle_Fighting_Championship) (last visited Nov. 2023).

90. Mark Francescutti, *MMA organization president reveals strong opinions about fighter pay, weight cutting and judging*, THE DALLAS MORNING NEWS (Jan. 6, 2017), <https://www.dallasnews.com/sports/other-sports/2017/01/06/mma-organization-president-reveals-strong-opinions-about-fighter-pay-weight-cutting-and-judging/>.

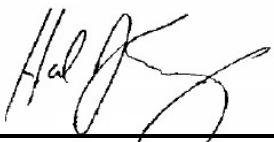
91. Michael DeSantis, *Jeff Aronson Discusses Titan FC’s Growth and Role*, MMA SUCKA (May. 17, 2018), <https://mmasucka.com/2017/05/18/jeff-aronson-discusses-titan-fcs-growth-role/>.

### CONCLUSION

29. All of the publicly available evidence suggests that Zuffa's dominance of the MMA industry persisted, if not expanded, during the Post-Class Period. My economic and economic findings to date in this matter would not be affected by additional discovery from the Post-Class Period. Should additional discovery from the Post-Class Period be made available, appropriately analyzing all of the relevant documents and data to respond to the erroneous arguments previewed by Zuffa and Dr. Topel about the Post-Class Period would realistically take well more than a year.

\* \* \*

Hal J. Singer, Ph.D.:



---

Executed on November 13, 2023